

IN THE UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF TEXAS

CORPUS CHRISTI DIVISION

Clerk, U.S. District Court  
Southern District of Texas  
FILED

JUL 21 2016

David J. Bradley, Clerk of Court

MICHAEL GARRETT, PLAINTIFF  
in behalf of class action

v.

CIVIL ACTION NO.

WILLIAM STEPHENS, RESPONDENT  
OSCAR MENDOZA, RESPONDENT  
CRYSTAL RODRIGUEZ, RESPONDENT

## AFFIDAVIT

I, Michael Garrett of sound mind am over 21 yrs. of age. I am a class member incarcerated in TDCJ-CID in Bee County. This affidavit is brought in good faith and I have personal knowledge to the incident.

TDCJ-CID and designees are hosting a riskful and hazardous living environment. The living quarters (cells) rain water into such areas. Thus such causes flooding or holding water.

2) Grievances have been exhausted accordingly to meet Rule compliance of the Court. (2016055760; 2016162481; and 2016153937)

3) Cristina Quintanilla, Nurse Patient Care Assistant and COII Carlos Sanchez Jr. are direct witnesses to the incident to support claim.

4) Cpt. Ambriz was acting duty warden on 31 May 2016, whom authorized transport to hospital to treat plaintiff.

5) RN Daniel Dominguez, Medical Attendant on call, with LVN Inpca Evans attending plaintiff and readying for transport to hospital.

6) Plaintiff was treated via pain medicine pills and shot to alleviate pain and to relax muscles.

7) Verifying records and reports are in the custody control and care of TDCJ-CID McConnell Unit and Beeville Christus Spohn Medical.

8) Plaintiff has notified TDCJ-CID and designees in attempt to remedy the hazardous living quarters, however they have failed to condemn until such conditions are cured and fixed 100%.

9) Nominal against Crystal Rodriguez.

10) Injunctive and Declaratory relief are sought against all respondents.

11) Patricia Benoit, Risk and Safety Personnel holds records and documents as well as interviewed about such harsh living conditions.

12) Plaintiff is seeking certification for this class action, and appointment of counsel.

13) Plaintiff is indigent and without means. A six month printout from TDCJ-CID agency is attached with verification.

This affidavit is true correct and complete under penalty of perjury. 28 USCA 1746.

Executed 18th July 2016

Michael Garrett

## SOUTHERN DISTRICT OF TEXAS

## CORPUS CHRISTI DIVISION

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## JURISDICTION AND VENUE

This is a class action suit authorized by 42 USCA §§1983 and Federal Rules of Civil Procedure Rule 23, to redress the deprivation under color of [state and federal] law. Rights secured by the Constitution of the United States. This Court has jurisdiction and venue under 28 USC §1331, 1343(a)(3) and 1391. Plaintiff seek Injunctive and Declaratory relief pursuant to 28 USC§ 2201 and 2202, and Rule 57 and 65.

## Planintiff(s)

Plaintiff, Michael Garrett is a member to the class and at all times mentioned a prisoner of the Texas Department of Criminal Justice in Beeville,Tx.

## Respondents

Repondent, William Stephens, TDCJ-CID Director, is legally responsible for the operation of TDCJ-CID and for the welfare of all the inmates of TDCJ-CID. He is sued in his official capacity at all times mentioned in this complaint.

Oscar Mendoza, Risk Management Director TDCJ-CID, is legally responsible for the saftey operation of TDCJ-CID. He is sued in his official capacity at all times mentioned in this complaint.

Crystal Rodriguez, Risk Manager Officer of McConnell Unit TDCJ-CID, is legally responsible for saftey and hazard and well being of all inmates of that prison. She is sued in her official capacity as well as individual, at all times mentioned in this complaint.

**EACH RESPONDENT ACTED UNDER THE COLOR OF LAW.**

## FACTS

At all times relevant to this case, Plaintiff has been incarcerated since 1992.

On the 31st May 2016, Plaintiff was asleep, and upon him being awakened to receive mail (delivered to his cell door, 8bldg Jpod 50cell), was unaware that due to the building(s) leaking rain water in to the cells, as he stood up, taking a step, he slipped on the flooded wet cell floor. Plaintiff's feet, both coming off the floor, caused him to land on the floor. Plaintiff hit his upper back, neck, and head on the cement floor. In doing so, Plaintiff

loss consciousness. Witnessing the entire incident were COII Carlos Sanchez Jr. and Nurse Patient Care Assistant, whom was walking with COII Sanchez, so she could dispense medicine.

Upon witnessing Plaintiff's fall COII Sanchez initiated assistance for medical support. Plaintiff learned of the details later.

Plaintiff was attended to by Nurse Evans as he was regaining his consciousness. Plaintiff was soon stabilized and secured so that he could be moved to medical on the facility. Immediate preparations were made by R.N. Daniel Dominguez to transport Plaintiff to Beeville Christus Spohn Hospital. The necessary precaution was to ensure Plaintiff did not sustain permanent or any other damage to his neck and head.

At the Hospital a C.T. Scan and X-Ray were conducted. Plaintiff was given medicine and a shot to alleviate pain and to relax his muscles. Plaintiff was initially cleared to return back to the prison facility. Ultimately Plaintiff did not sustain permanent injuries.

Plaintiff has grieved the inhuman living conditions about the cells leaking rain water and thus flooding the cells. Ms. Patricia Benoit has made complaints to her supervisor, Crystal Rodriguez about the imposing dangers and extreme hazards. However no corrective measures have nor had been taken.

Plaintiff has tried to remedy this situation further by trying and contacting Rodriguez's supervisor in Huntsville, Tx., TDCJ-CID Director and Risk Management.

No remedy to avail this inhuman living conditions, which poses an imminent risk of danger and extreme serious harm to plaintiffs, has been responded to reasonably.

#### LEGAL CLAIMS

The class action member has continually been subjected and forced to live in such dangerous conditions. The continual denial of preventive measures to ensure a risk free, hazardous free environment creates the 8th Amend. USCA violation, and 14th Amend. Said member's right of liberty to be free of life endangering conditions are being violated of their constitutional established safe guarded rights. **Wilson**, 501 U.S. 294(1991); **Helling**, 509 U.S. 25(1993); **Farmer**, 511 U.S. 825(1994).

Respondents acts arise from under the color of law which create deliberate indifference. **Cantu**, 293 F.3d 839(5CA 2002); **Hare**, 135 F.3d 320, 325(5CA1998).

Respondents deliberate failure to maintain and ensure the fixtures thru maintenance and to ensure the welfare of Plaintiffs by allowing such substantial risks of danger and hazard is inhumane. The forcing of one to live in the unsafe and extreme conditions is cruel and unusual punishment and treatment.

The blatant disregard to operate a safe and risk free environment shows callous deliberate indifference on Plaintiff's constitutional rights and

City of Canton, 109 S.Ct. 1197(1989).

#### EXHAUSTION COMPLIANCE

Grievance numbers 2016055760; 2016162481; and 2016153937 were all with the time limitation exhaustion compliance rule.

#### CONCLUSION

The specific facts are matter in controversy which arises under Rule 23 and 42 USC §1983, *Erickson*, 127 S.Ct. 2197(2007), and *Neitzke*, 109 S.Ct. 1827(1989).

Plaintiff seeks the courts relief for Injunctive and Declaratory upon all respondents.

Pursuant to Rule 68 arguably and agreeing to condemn the unsafe cells thru out TDCJ-CID which leak and flood rain water into living quarters until reconstruction fixture is made at 100%.

Nominal relief imposed upon Crystal Rodriguez and any other relief deemed by the court. Recovery and Cost of legal fees pursuant to 42 USC 1988 and any other additional relief this court deems just proper and equitable.

Executed 18 July 2016

*Michael Garrett*

#### VERIFICATION

I, Michael Garrett a class member of this suit verify that the above and following is true correct and complete under penalty of perjury. 28 USC 1746.

Executed 18 July 2016

*Michael Garrett*

#### CERTIFICATE OF SERVICE

I, Michael Garrett, certify that the attached affidavit and 1983 suit has been serviced via US POSTAGE prepaid first class to the following:

William Stephens

861-B I-45N

Huntsville, Tx. 77320

Oscar Mendoza

861-B I-45N

Huntsville, Tx. 77320

Crystal Rodriguez

3001 S. Emily Dr.

Beeville, Tx. 78102

Executed 18 July 2016

*Michael Garrett*

MICHAEL GARRETT

697364

3001 S. Emily Dr. (ML)

Beeville, Tx. 78102



MICHAEL SMITH

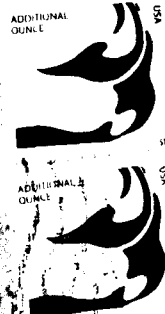
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3801 S. Emily Drive (ML)

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JUL 21 2016



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TUE 19 JUL 2016 PM

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